

**ORIGINAL**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,

VIO: 21 U.S.C. § 841(a)(1)  
18 U.S.C. § 1347  
18 U.S.C. § 2

v.

GAVIN AWERBUCH, M.D.  
  
Defendant.

Case: 2:16-cr-20636  
Judge: Tarnow, Arthur J.  
MJ: Majzoub, Mona K.  
Filed: 09-16-2016 At 11:18 AM  
INFO USA V. AWERBUCH (NA)

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**INFORMATION**

THE UNITED STATES ATTORNEY CHARGES:

**GENERAL ALLEGATIONS**

Beginning in or around January, 2013, and continuing to in or around May, 2014, in Oakland, Genesee, and Saginaw Counties, in the Eastern District of Michigan, and elsewhere, defendant GAVIN AWERBUCH, M.D., did knowingly, intentionally and unlawfully distribute the Schedule II controlled substance fentanyl in violation of 21 U.S.C. § 841(a)(1). Specifically, defendant GAVIN AWERBUCH, M.D., a licensed physician, wrote prescriptions for patients to receive Subsys, a liquid formulation of fentanyl. Certain of these prescriptions, such as the prescription specified in Count 1 below, were written outside the course of usual medical practice and for no legitimate medical purpose.

**COUNT 1**

**(Distribution of Controlled Substances, Aiding and Abetting,  
21 U.S.C. § 841(a)(1), 18 U.S.C. § 2)**

On or about January 25, 2013, in the Eastern District of Michigan, defendant GAVIN AWERBUCH, M.D., wrote a prescription to undercover patient "M.P." for 30 doses of Subsys (200 mcg), a liquid formulation of the Schedule II controlled substance fentanyl. This prescription was written outside the course of usual medical practice and for no legitimate medical purpose, and defendant GAVIN AWERBUCH, M.D. did therefore knowingly, intentionally and unlawfully distribute a controlled substance in violation of Title 21, United States Code, Section 841(a)(1).

**COUNT 2**

**(Health Care Fraud 18 U.S.C. § 1347)**

Beginning in or around January 2009, and continuing through in and around May 2014, in Oakland, Genesee and Saginaw Counties, in the Eastern District of Michigan, and elsewhere, defendant GAVIN AWERBUCH, M.D., did knowingly execute and attempt to execute a scheme and artifice to defraud health care benefit programs, specifically Medicare and Blue Cross/Blue Shield of Michigan, and to obtain by means of false and fraudulent pretenses, representations, and promises the money and property owned by and under the custody and control of those health care benefit programs. To accomplish this scheme to defraud, defendant GAVIN AWERBUCH, M.D. billed the Medicare and Blue Cross/Blue Shield of

Michigan insurers for nerve conduction studies and needle electromyographies which were medically unnecessary.

### **FORFEITURE ALLEGATIONS**

The allegations contained in Counts 1-2 of this Information are hereby incorporated by reference for the purpose of alleging forfeiture against the defendant pursuant to the provisions of Title 21, United States Code, Section 853; Title 18, United States Code, Sections 981(a)(1)(C) and 982; and Title 28, United States Code, Section 2461.

As a result of the foregoing violations of Title 21, United States Code, Sections 841(a)(1) and Title 18, United States Code, Section 1347, as charged in Counts 1-2 of this Information, defendant shall forfeit to the United States: (a) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violations; (b) any property involved in said violations, or any property traceable to such property; and (c) any property used, or intended to be used, in any manner or part, to commit or to facilitate the commission of such violations.


Such property includes, but is not limited to, a money judgment, and all traceable interest and proceeds for which the defendant is liable. Such sum in aggregate is property representing the proceeds of the aforementioned offenses, or

is traceable to such property, and/or is involved in violations of Title 21, United States Code, Section 841 and Title 18, United States Code, Section 1347.

Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), defendant shall forfeit substitute property, up to the value of the properties described above or identified in any subsequent forfeiture bills of particular, if, by any act or omission of the defendant, the property cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

Respectfully submitted,

BARBARA L. MCQUADE  
United States Attorney

  
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JOHN K. NEAL  
Assistant United States Attorney  
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Dated: September 16, 2016

United States District Court  
Eastern District of Michigan

**Criminal Case Cover Sheet**

Case: 2:16-cr-20636  
Judge: Tarnow, Arthur J.  
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

<b>Companion Case Information</b>	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> :	Judge Assigned:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AUSA's Initials: JKN

Case Title: USA v. Gavin Awerbuch, M.D.

County where offense occurred : Oakland, Genesee and Saginaw Counties

Check One: ☒ Felony ☐ Misdemeanor ☐ Petty

☐ Indictment/ ☐ Information --- no prior complaint.

☐ Indictment/ ☒ Information --- based upon prior complaint [Case number: 14-mj-30216 ]

☐ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

**Superseding Case Information**

Superseding to Case No: \_\_\_\_\_ Judge: \_\_\_\_\_

- ☐ Corrects errors; no additional charges or defendants.  
☐ Involves, for plea purposes, different charges or adds counts.  
☐ Embraces same subject matter but adds the additional defendants or charges below:

Defendant name

Charges

Prior Complaint (if applicable)

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

September 16, 2016

Date

  
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 Assistant United States Attorney  
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 Attorney Bar #:

<sup>1</sup> Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.